

\*E-filed 8/10/06\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

CHUCK BROWNING,

Plaintiff,

v.

YAHOO! INC., CONSUMERINFO.COM,  
INC., and EXPERIAN NORTH AMERICA,  
INC.,

Defendants.

Case No. C04-01463 HRL

**THIRD INTERIM ORDER ON  
JOINT MOTION FOR  
CERTIFICATION OF  
TENTATIVE SETTLEMENT  
CLASS AND PRELIMINARY  
APPROVAL OF PROPOSED  
SETTLEMENT, ETC.**

**Re Docket No. 103**

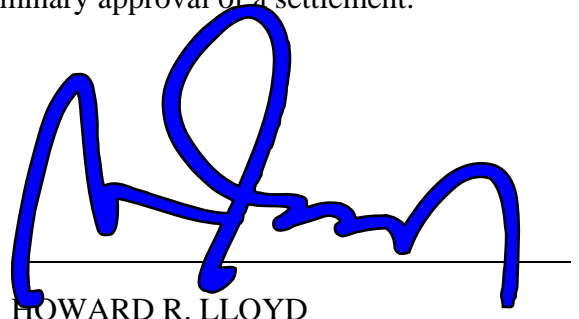
On May 8, 2006, following a preliminary approval hearing, the court took under submission the parties' Joint Motion for Certification of Tentative Settlement Class, Preliminary Approval of Proposed Settlement, Approval and Direction of the Notice Plan, Appointment of Class Counsel, and Appointment of Settlement Administrator ("Joint Motion"). Then, the court issued an Interim Order describing its questions and reservations about the proposed settlement, particularly the breadth of the class definition and the sweeping scope of the release, and asked the parties to reply. The parties replied and proposed new release language. After reviewing their new submission, the court issued a Second Interim Order focusing on its still-lingering concern about the broad scope of the proposed release. It suggested that the parties try again. They have done so.

1 The court is now in receipt of a Joint Memorandum In Response to the Second Interim  
2 Order. In it the parties propose two versions of substitute language for subpart (2) of the  
3 release. Alternative A would release claims based on "any Released Party's selling, providing  
4 or performing (or representing that such person can or will sell, provide, or perform) the service  
5 of improving a consumer's credit record, history or rating (including providing advice or  
6 assistance to the consumer with regard to improving the consumer's credit record, history, or  
7 rating), where the stated basis of the claim is about improvement of a consumer's credit record,  
8 history, or rating." Alternative B would release claims based on "any Released Party's selling,  
9 providing or performing (or representing that such person can or will sell, provide, or perform)  
10 any service, advice, or assistance with regard to improving a consumer's credit record, history,  
11 or rating."

12 Of the two, Alternative A satisfies the court's current concerns about the scope of the  
13 release, and the court invites a new motion for preliminary approval of a settlement.

14  
15 **IT IS SO ORDERED.**

16  
17 Dated: August 9, 2006



HOWARD R. LLOYD

UNITED STATES MAGISTRATE JUDGE

1 THIS IS TO CERTIFY THAT A COPY OF THIS NOTICE WILL BE SENT TO:

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16 **Counsel are responsible for distributing copies of this document to co-counsel who have**  
17 **not registered for e-filing under the court's CM/ECF program.**

18 A courtesy copy will be mailed to:

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24 Dated: 8/9/06

\_\_\_\_\_/s/ JMM  
Chambers of Magistrate Judge Howard R. Lloyd